

3 AAC is amended by adding new chapter to read:

Chapter 161. Bulk Fuel Bridge Loan Revolving Fund

Section

- 010. Application process.
- 020. Examination.
- 030. Eligibility.
- 040. Financial and credit record.
- 050. Lending practices.
- 060. Disbursement of loan money.
- 070. Modifications.
- 080. Reconsideration of a loan request.
- 090. Confidentiality of loan information.
- 100. Definitions.

3 AAC 161.010. Application Process To apply for a loan for from the bulk fuel revolving bridge loan program under AS 29.60.660, an applicant shall file with the department or its designated agent

- (1) a completed application, on a form provided by the department;
- (2) a letter of intent, on a form provided by the department, stating the amount requested and the intended use of the proposed loan money;
- (3) a bulk fuel revolving loan agreement, on a form provided by the department;
- (4) a promissory note, on a form provided by the department;
- (5) if the applicant is a Native village council, a resolution waiving sovereign immunity on a form provided by the department;
- (6) a written endorsement, on a form provided by the department, from the governing body of the community for which a loan is being requested;
- (7) information about the condition of the fuel storage tanks where the fuel is to be kept;
- (8) a copy of a letter of denial of loan from the bulk fuel revolving loan fund (AS42.45.250);
- (9) a copy of a letter of denial of loan from any other source used to finance the purchase of bulk fuel within the past three years; and
- (10) any other information requested by the department to demonstrate the applicant's eligibility for a loan.

(Eff. ____/____/2008, Register ____)

Authority: AS 44.62

3 AAC 161.020. Examination (a) The department or its agent will process the material described in 3 AAC 161.010 and evaluate the eligibility of the community and the applicant's eligibility, financial and past loan records, ability to repay the loan and any other relevant information. Additionally, the department or agent will evaluate the information provided under 3 AAC 161.010(10)

(b) On the basis of the evaluation described in (a) of this section, the department will

(1) deny the application, if the application is incomplete or the applicant is ineligible; or

(2) approve the applicant's loan request; such approval may include modifications to the request.

(c) If a loan request is denied or significantly modified by the department, the department will provide the applicant with a statement of the reasons for the action and the information relied upon by the department for the denial or modification.

(d) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request. (Eff. ____/____/2008, Register ____)

Authority: AS 44.62

3 AAC 161.030. Eligibility To be eligible for a loan,

(1) an applicant must intend to use the loan for purchase of fuel to generate power or supply the public with fuel for use, including the necessary costs of transporting the fuel;

(2) must have a written endorsement from the governing body of the community for which a loan is being sought;

(3) must first apply and have been denied a loan from

(a) the bulk fuel revolving loan fund (AS42.45.250) administered by the Alaska Energy Authority

(b) any other funding source used by the applicant in the past three years to finance purchases of bulk fuel for the community; and

(c) any other funding source that the department determines is available to the applicant to purchase bulk fuel

(Eff. ____/____/2008, Register ____)

Authority: AS 44.62

3 AAC 161.040. Financial and credit record The department or agent will, in its discretion, consider the following factors in evaluating an applicant's financial and credit record:

(1) existing and prior debts;

(2) prior loan history with other known fuel lenders;

(3) timeliness in making payments on loans and other debts;

(4) existence of tax liens;

(5) unpaid judgments and prior foreclosures;

(6) financial and credit reputation, and

(7) proposed selling price of fuel purchased or electricity generated using purchased fuel.

(Eff. ____/____/2008, Register ____)

Authority: AS 44.62

3 AAC 161.050. Lending practices (a) the amount of the loan, added to the amounts of all other bulk fuel revolving bridge loans to the same borrower in the same fiscal year, may not exceed \$750,000.

(b) The loan period will be fixed by the department based on the needs of the borrower. However, loans must be repaid within one year of the date of award.

(c) No proceeds of a bulk fuel loan may be used to

(1) purchase fuel other than bulk petroleum fuels;

(2) make a profit, unless the profit is used to purchase additional community fuel supplies.

(Eff. ____/____/2008, Register ____)

Authority: AS 44.62

3 AAC 161.060. Disbursement of loan money (a) Loan money will be disbursed after the borrower has complied with the provisions of the loan documents and the requirements of this chapter.

(b) Loan money will be disbursed upon receipt by the department of delivery bills and fuel invoices.

(c) No loan money will be disbursed until the loan agreement, the borrowing resolution, the promissory note, and the resolution waiving sovereign immunity, when

applicable, have been signed by the authorizing signatories and received by the department. (Eff. ____/____/2008, Register ____)

Authority: AS 44.62

3 AAC 161.070. Modifications A request for a modification to a loan made under AS 42.29.660 and 3 AAC 161.010 - 3 AAC 161.090 will be processed in the same manner as a loan application. The department or agent will, in its discretion, require the applicant to provide one or more of the items specified in 3 AAC 161.010 and 3 AAC 161.040. (Eff. ____/____/2008, Register ____)

Authority: AS 44.62

3 AAC 161.080. Reconsideration of a loan request (a) If a loan request is denied or significantly modified by the department, an applicant may file a written request for reconsideration with 30 days after receipt of notice of the department's decision.

(b) The department will consider a request for reconsideration if the applicant submits information to show that

(1) there has been a substantial change in the circumstances leading to the department decision;

(2) additional relevant information can be provided to the department that was not initially available; or

(3) administrative errors were made by the department or agent.

(Eff. ____/____/2008, Register ____)

Authority: AS 44.62

3 AAC 161.090. Confidentiality of loan information (a) The following information is not confidential and is available for public inspection upon request:

(1) a document that is already a public record including deeds of trust, financing statements, warranty deeds, bills of sale, mortgages, liens, and vehicle titles;

(2) general information regarding loans, including the original loan amount, loan terms, personal guarantees, and disbursement and repayment schedules;

(3) insurance matters, including title insurance policies and correspondence with insurance companies or borrowers regarding losses, accident reports, and nonpayment of premiums; and

(4) foreclosure and default proceedings.

(b) The following information is confidential and is not subject to public disclosure:

(1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained directly from banks and other creditors, and reports obtained from consumer reporting agencies;

(2) loan review staff notes containing information relating to credit worthiness of an applicant; and

(3) the payment history on a loan, unless the loan is in default.

(c) Information not described in (a) or (b) of this section may be subject to public disclosure. A request for disclosure must be made, and disclosure will be determined in accordance with 2 AAC 96. Upon receipt of a request for disclosure, the department or agent will notify the loan applicant and other persons with a privacy interest in the request, to permit them to present reasons why the requested information should not be disclosed. (Eff. ____/____/2008, Register ____)

Authority: AS 44.62

3 AAC 161.100. Definitions Unless the context requires otherwise, in 3 AAC 161.010 - 3 AAC 161.360,

(1) "bulk fuel" means bulk petroleum fuels;

(2) "default" includes a violation of any provision of AS 29.60.660 , 3 AAC 161.010 - 3 AAC 161.090, or the loan documents, failure to make a necessary payment within 30 days after it is due, or failure to maintain the insurance required by the department;

(3) "department or agent" means the Department of Commerce, Community, and Economic Development or its designated agent.

(Eff. ____/____/2008, Register ____)

Authority: AS 44.62